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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,351	01/30/2001	David Dodge	KOSIE-016XX	2577

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EXAMINER

ROSENBERG, LAURA B

ART UNIT PAPER NUMBER

3616

DATE MAILED: 10/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/774,351

Applicant(s)

DODGE, DAVID

Examiner

Laura B Rosenberg

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1,2 and 9-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 3-8 and 15-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Election/Restrictions

1. Claims 1, 2, and 9-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9. The examiner disagrees with the applicant's belief that claims 1, 2, and 9-14 read upon the elected species of figures 1, 2, and 5-9 because independent claims 1 and 9 disclose a pair of elongated plates that are not part of the elected species. Thus, only claims 3-8 and 15-20 have been examined as reading upon the elected species.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the upper forward, lower forward, upper rear, and lower rear biasing means (claims 7, 8, 19, 20) must be

shown or the feature(s) canceled from the claim(s). No new matter should be entered. The drawings are also objected to because there is a "?" in figure 7. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract of the disclosure is objected to because it should be written as a single paragraph. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities: several lines on the top of page 4 are a duplicate of several lines on the bottom of page 3; on page 13, lines 18-20, reference numbers 23, 310, and 330 need to be properly associated with the top plate and the base pad; on page 14, line 8, "and" should be "an". Appropriate correction is required.

Claim Objections

6. Claims 7, 8, 19, and 20 are objected to because of the following informalities: "binging" should be "binding" (line 1); "a" should be "an" (lines 1, 2). Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 7, 8, 19, and 20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no reference to or explanation of the upper forward, lower forward, upper rear, and lower rear biasing means in the specification or in the drawings.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 3-6, 7-8 (as best understood), 15-18, and 19-20 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Rohrmoser (5,213,356). In regards to claims 3 and 15, Rohrmoser discloses a ski binding (#1) for use with a ski (#3) comprising a base plate (#8) capable of being attached to the ski (best seen in figure 1), a top plate (#23) pivotably attached to the base plate (best seen in figure 3), biasing means (#58) for biasing the top plate towards a predetermined position (column

5, lines 57-65), a toe holding means (#4) pivotably or translatably connected to the top plate so that lateral force applied to the toe holding means is transferred to the top plate (column 4, lines 50-53) and having toe release means that releases when the toe holding means is pivoted or translated (column 4, lines 32-41), and means for pivoting or translating the toe holding means (#21) when the top plate is moved away from the predetermined position (best seen in figure 3).

In regards to claims 4 and 16, Rohrmoser discloses the base plate (#8) attached to the ski (#3) in the central portion of the base plate (best seen in figure 1).

In regards to claims 5, 6, 17, and 18, Rohrmoser discloses that the length of the ski binding can be adapted to different conditions (column 3, lines 33-37). Thus, the base plate, which is a portion of the ski binding, could indeed be shorter in length than a conventional binding.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chevalier et al., Jungkind, Sedlmair, Pascal et al., Stritzl et al., Dimier et al., Spitaler, Gertsch, and Wilkes disclose ski bindings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B Rosenberg whose telephone number is (703) 305-3135. The examiner can normally be reached on Monday-Thursday, alternating Fridays 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached at (703) 308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Lana B. Rosenberg

LBR
October 21, 2002

Paul N. Dickson 10/21/02

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